

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED
AUG 03 2009
WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By
Deputy Clerk

(1) JOBRI, LLC,

Plaintiff,

v.

(1) SELECT COMFORT CORPORATION,

Defendant.

Case No. CIV- CIV 09 - 296 - RAW

COMPLAINT

COMES NOW Plaintiff, Jobri, LLC, and for its cause of action against Defendant, Select Comfort Corporation, alleges and states as follows:

JURISDICTION AND VENUE

1. Plaintiff, Jobri, LLC ("Jobri") is a limited liability company organized and existing under the laws of the State of Oklahoma.

2. Jobri's principle place of business is in Konawa, Oklahoma and its members are residents and citizens of the State of Oklahoma.

3. Defendant, Select Comfort Corporation ("Select Comfort") is a Minnesota corporation with its principal place of business in Plymouth, Minnesota.

4. The Court has original subject matter jurisdiction over this matter 28 U.S.C. § 1332(a)(1), because the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and the Plaintiff is a citizen of a State different than that of Defendant.

Waiver of service given

5. Venue is proper in the Eastern District of Oklahoma under 28 U.S.C.A. § 1391(a).

FACTS

6. Select Comfort manufactures, distributes and sells adjustable firmness airbeds.

7. In March 2006, Select Comfort and Jobri entered into discussions regarding a contemplated agreement between the parties whereby Jobri would supply Select Comfort with airbeds for retail sale.

8. Over the next two years, Select Comfort and Jobri entered into a Non-Disclosure Agreement, visited each other's facilities and those of a vendor with whom Jobri intended to contract to supply component parts for the airbeds, and worked through various technical issues involved in the manufacture of the airbeds.

9. The parties also negotiated the final terms of the Master Supply Agreement ("Agreement").

10. At Select Comfort's request, Jobri constructed and shipped over fifty (50) model bedss, completed burn and other destructive testing, completed FCC testing, obtained venture capital for the project, and completed graphics and other marketing materials, at a cost to Jobri of approximately \$460,600.00.

11. In September 2008, and in accordance with the parties' agreement, Select Air submitted three purchase orders ("Purchase Contracts"), totaling \$1,047,565.

12. After numerous delays by Select Comfort in launching the marketing and retail of the airbeds it agreed to purchase, Select Comfort notified Jobri that would not

pay the amounts due under the Purchase Orders or fulfill its obligations under the Agreement.

CAUSE OF ACTION

Jobri hereby incorporates paragraphs 1 through 12 of the Complaint by reference, as if fully set forth herein.

13. The Agreement and Purchase Contracts entered into by and between Select Comfort and Jobri are enforceable contracts.

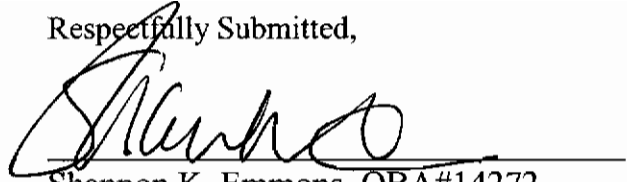
14. Select Comfort's failure to pay the outstanding amount due to Jobri under the terms of the Purchase Contracts constitutes a breach of those contracts

15. Select Comfort's refusal to proceed with its agreed-upon purchase of the airbeds from Jobri constitutes a breach of the Agreement.

16. As a result of Select Comfort's breach of the Agreement and Purchase Contracts, Jobri has incurred damages that include the amount due under the Purchase Contracts and Agreement, as well as consequential damages.

WHEREFORE, premises considered, Plaintiff, Jobri, LLC, prays on that it have judgment against the Defendant, Select Comfort Corporation, in the sum of One Million Five Hundred Eight Thousand One Hundred Sixty- Five Dollars and No Cents (\$1,508,165.00) and in an amount to be determined for consequential damages, together with pre- and post-judgment interest thereon, and an award of attorney's fees and all costs in prosecuting this action.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Shannon K. Emmons', is written over a horizontal line.

Shannon K. Emmons, OBA#14272

PHILLIPS MURRAH P.C.

13th Floor | Corporate Tower

101 N. Robinson

Oklahoma City, OK 73102

Telephone: (405) 235-4100

Facsimile: (405) 235-4133

Attorneys for Plaintiff